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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,546	09/12/2006	Patrick Hanley	PA1365	4055
28390 7590 10/21/2008 MEDTRONIC VASCULAR, INC. IP LEGAL DEPARTMENT 3576 UNOCAL PLACE SANTA ROSA, CA 95403				
EXAMINER PEZZUTO, HELEN LEE				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
10/21/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rs.vasciplegal@medtronic.com

Office Action Summary

Application No.

10/553,546

Applicant(s)

HANLEY ET AL.

Examiner

Helen L. Pezzuto

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's cancellation of claims 1-14 and the addition of claims 15-28 filed in the response on 8/26/08 is acknowledged. Currently, claims 15-28 are pending in this application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 15-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradford et al. (US-759) or Garnett et al. (US-511).

US 6,835,759 to Bradford et al. discloses a dual cure coating composition suitable for porous substrates, comprising a radiation curable component (a1), a thermally curable binder component (a2), a thermally crosslinking component (a3), and optionally one or more reactive diluents (a4). Prior art porous substrate material includes plastics and metals, which fall within the scope of the

instant biomedical device (col. 1, lines 15-21).

Specifically, prior art (a1) and (a2) components can be oligomeric or polymeric, having a number average molecular weight of from 500 to 50,000, defined within the scope of the one of the recited polymeric species (e.g. the relatively lower molecular weight polymer). Suitable reactive diluents (a4) include (meth)acrylic acid, alkylene glycol di(meth)acrylate, embraces the instant unsaturated hydrophilic monomer (col. 12, lines 45-62). Prior art further teaches up to 40 wt% of coating additives, including polyvinylpyrrolidone polymer, embracing one of the polymeric species defined in the present claims (e.g. the relatively higher molecular weight polymer).

Photoinitiators such as benzophenone and reaction solvents were further disclosed (col. 15, line 67; col.16, lines 24-41). Accordingly, it would have been obvious to one having ordinary skill in the art to select the relatively high and low molecular weight polymeric species, the unsaturated monomer such as acrylic acid or a diacrylate, a UV activatable compound such as benzophenone, polyvinylpyrrolidone as a coating additive, and a suitable solvent to formulate a coating composition suitable for coating on an implantable biomedical device as presently

claimed , motivated by the reasonable expectation of success.

Similarly, US 6,162,511 to Garnett et al. discloses a radiation curable coating composition comprising a resin component including an unsaturated monomer, and an unsaturated oligomer/prepolymer, and binder or mixture thereof (see abstract). Suitable substrate material includes plastics and metals, which fall within the scope of the instant biomedical device (col. 7, lines 63-67). Specifically, suitable unsaturated monomers include unsaturated carboxylic acid (e.g. acrylic acid), and multifunctional acrylate within the scope of claim 2 (col. 2, lines 34-54). Prior art oligomer or prepolymer falls within the scope of the instant relatively low molecular weight polymer. Suitable higher molecular weight binder polymer includes polyvinylpyrrolidone, encompassing the instant higher molecular weight polymer expressed in claim 14 (col. 3, lines 4-16). Hydrogen abstracting photoinitiator such as benzophenone and reaction solvent were also taught (col. 3, lines 38-39; col. 4, lines 22-24). Accordingly, one having ordinary skill in the art would have readily envisaged selecting the claimed components in the forming a coating composition suitable

for coating on an implantable biomedical device, motivated by the reasonable expectation of success.

Response to Arguments

Applicant's amendment and remarks filed 8/26/08 have been fully considered but are not found to be persuasive. The crux of applicant's argument lies in prior art references does not suggest a biocompatible coating suitable for coating on an implantable biomedical device. This is not found to be compelling because prior art teaches the recited coating composition suitable used on plastic and metal substrates. One having ordinary skilled in the art would recognize that biomedical devices are vastly derived from plastic and metal material, and thus embrace the scope of the present claims. Applicant further urges Bradford and Garnett references discloses talc and flame retardant additives in the coating compositions, and thus fall outside the scope biocompatible. The examiner respectfully disagrees because prior art references disclose talc and flame retardants additives as optional ingredients in their coating compositions. One having ordinary skill in the art obviously would not envisage incorporating these additives when applying the coating on

biocompatible substrates. Accordingly, the examiner's position is maintained.

3. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen L. Pezzuto whose telephone number is (571) 272-1108. The examiner can normally be reached on 8 AM to 4 PM, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization

where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Helen L. Pezzuto/
Primary Examiner
Art Unit 1796

HLP